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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,441	01/22/2002	Bruce Raymond Mackinnon	P67278US0	4255

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WASHINGTON, DC 20004

EXAMINER
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CHIN SHUE, ALVIN C

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/926,441	MACKINNON, BRUCE RAYMOND	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alvin C. Chin-Shue	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 9, 13, 16 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13, 16, 24-26, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13,25,26 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franks '822 in view of Kemper. Franks shows the claimed combination with the exception of the force fit attachment. Kemper shows a force fit attachment comprising a flange 26 and wedge 36. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Franks to comprise a flange and wedge, as taught by Kemper, in lieu of the force fit attachment means at 22,18,20,74,76 of Franks, to enable a wedging force fit attachment of his step with the pole.

Claims 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Georgianna in view of Franks '272 and Buttgerit. Georgianna shows the claimed step with the exception of the single centered attachment portion and the wedge. Franks shows a single centered attachment portion 26 to enable attachment to a single aperture of a hollow pole. Buttgerit shows a wedge 5 for wedging an attachment of a hook attachment portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Georgianna

to comprise a single centered attachment portion, as taught by Franks, to enable attachment to a hollow pole having a single aperture at different heights and to further comprise a wedge, as taught by Buttgereit to enable a wedging force fit attachment of his step. Furthermore, to use the step of Georgianna in combination with a hollow pole, as taught by Franks, as set forth in claim 26, would have been obvious to one of ordinary skill in the art at the time the invention was made in view of the teachings of Franks at 24 to enable the use of his step to climb a pole.

Claims 24 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Georgianna, Franks and Buttgereit as applied to claims 13 and 26 above, and further in view of Eich. Eich shows a wedge member having substantially the same cross section inner and outer faces extending the length thereof to provide corresponding abutting surfaces. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the face at 5d of Buttgereit to be substantially the same cross section as that of the face at 5b to enable both surfaces to be of the same cross sectional configuration. Furthermore, to angle the face as claimed depending upon the abutment fit desired, would have been an obvious engineering expedient.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eich in view of Buttgereit. Eich shows the claimed wedge with the exception of the

enclosed slot. Buttgereit shows a wedge member having an enclosed slot. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the wedge member of Eich to comprise an enclosed slot to enable its use as a wedging connector having a fastener extending there through.

Furthermore, to angle the face as claimed depending upon the spacing to be filled between the flange and hook and the thickness of the supporting surface to be used on, would have been an obvious engineering expedient.

Applicant's election of fig. 5a in the reply filed on 5.12.04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant's arguments filed 5.12.04 have been fully considered but they are not persuasive. With respect to claim 16 and Eich in view of Buttgereit, the difference to be resolved between the claimed invention and Eich is the enclosed slot. Buttgereit shows a wedge having an enclosed slot for the claimed purpose, thus Buttgereit is an analogous art. It is within the scope of one of ordinary skill in the art to appreciate the teachings of analogous arts to resolve the different at hand, therefore the combined teaching is deemed proper.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 703-308-2475. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The

fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin C. Chin-Shue  
Examiner  
Art Unit 3634

ACS